

Service-Disabled Veteran-Owned Small Business (SDVOSB) Procurement Authority

Law: Section 308 of the Veterans Benefit Act of 2003 (Public Law 108-183) amends the Small Business Act (15 U.S.C. 631 et seq) to provide for a procurement program for service-disabled veteran-owned small business (SDVOSB) concerns. Specifically, the law provides that contracting officers may:

- Award contracts on the basis of competition restricted to SDVOSBs if there is a reasonable expectation that two or more SDVOSBs will submit bids and that the award can be made at a fair market price, or

- Award a sole source contract to a responsible SDVOSB when there is not a reasonable expectation that two or more SDVOSBs would bid, the anticipated contract price (including options) will not exceed \$5 million (for manufacturing) or \$3 million otherwise, and the contract award can be made at a fair and reasonable price.

- The law limited use of SDVOSB procurement authority to procurements that would not otherwise be made from Federal Prison Industries (FPI) or pursuant to the Javits-Wagner-O'Day (JWOD) Act.

Federal Acquisition Regulation: An interim rule to modify the FAR was published in the Federal Register on 5 May 2004, 69 FR 25274, and was effective immediately. The interim rule—

- Provides a discretionary tool to improve performance towards the Government-wide statutory SDVOSB goal of 3 percent for contracting with SDVOSBs.

- Establishes subpart 19.14 for the SDVOSB program.

- Provides for awards to SDVOSB, notwithstanding the small business reservations and set-aside requirements at 19.502-2.

- Requires consideration of SDVOSB set-asides before SDVOSB sole source awards.

- Excludes requirements currently being performed by an 8(a) participant or requirements SBA has accepted for the 8(a) program from the SDVOSB program, unless SBA consents to release to the SDVOSB program.

- Provides for contractor self-representation, requires all questions about SDVOSB size or status to be referred to SBA for resolution recognizing that SBA will rely upon existing Department of Veteran's Affairs or Department of Defense determinations regarding status, and provides for penalties for false representation.

- Was worked in conjunction with the SBA interim rule.

Small Business Administration Regulation: An interim rule to modify SBA's regulations was published in Federal Register on 5 May 2004, 69 FR 25262.